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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/195,270	11/18/1998	KATSUHIRO OCHIAI	P/2054-95	4140

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NEW YORK, NY 10036

EXAMINER

SALCE, JASON P

ART UNIT	PAPER NUMBER
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2611

19

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/195,270

**Applicant(s)**

OCHIAI ET AL.

**Examiner**

Jason P Salce

**Art Unit**

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,7-14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,7-10 and 16 is/are allowed.
- 6) ☒ Claim(s) 11-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments with respect to claims 11-14 have been considered but are moot in view of the new ground(s) of rejection. Examiner has found new art that reads on the claims.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Majeti et al. (U.S. Patent No. 5,534,913) in view of Cragun et al. (U.S. Patent No. 5,859,662).

Referring to claim 11, Majeti discloses a broadcast resource receiver (see element 62 in Figure 1) receiving at least a first broadcast stream (see Column 4, Lines 27-32 for receiving a television signal), said broadcast resource receiver being responsive to a unified notation (see Column 4, Lines 20-24 for a unified notation (transmission format from the headend)), said unified notation identifying at least said first broadcast stream (the television programs) and a second broadcast stream (see Column 4, Lines 11-17 for adding digital information (second broadcast stream) to the television programs sent from the head-ends 30A-30N), said unified notation being independent from a capture route, a capture time, and an inherent name (see again

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Column 4, Lines 20-24 to show that the first and second broadcast streams are simply multiplexed into 6Mhz channels that can be interpreted at the customer premise, which inherently contains no capture route, capture time or inherent name data).

Majeti also discloses a communication resource receiver (personal computer 74 in Figure 1) receiving at least said second broadcast stream (see Column 4, Lines 32-36), said broadcast resource receiver being response to said unified notation (see arguments presented above).

Majeti also discloses a reception route selection apparatus (see splitter 58 in Figure 1) being responsive to said unified notation, said reception route selection apparatus selecting said broadcast resource receiver or communication resource receiver for receiving one of said broadcast streams (see Column 5, Lines 30-40 for splitting the signal, which has a unified notation (see Column 4, Lines 20-24) and sending it to the proper apparatus) based on at least a first broadcast time corresponding to said first and second broadcast streams (see Column 10, Lines 41-52 for specifying a time to transmit broadcast streams according to available bandwidth).

Majeti also discloses route selection for capturing said broadcast streams (see again arguments regarding the splitter for capturing the proper stream and routing the stream to either the set top box 62 or the personal computer 74), said route selection being uniquely decided dependent on a broadcast time of said broadcast streams (see arguments above, regarding broadcasting a stream at a specified time).

Majeti fails to disclose an arbitrary portion of one of said broadcast streams is cut and then transferred onto a communication route. Cragun discloses capturing portions

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of a broadcast for future viewing (see Column 10, Lines 47-55, Column 11, Lines 37-62 and Column 12, Lines 20-28). At the time the invention was made, it would have been obvious to modify the customer premise equipment, as taught by Majeti, to utilize the capturing equipment based on an incoming broadcast stream, as taught by Cragun, for the purpose of allowing the viewer to selectively control what is viewed (see Column 1, Lines 61-62 of Cragun).

Claim 12 corresponds to claim 11, where Majeti discloses that one of the broadcast streams is a TV broadcast (see Column 4, Lines 20-22).

Claim 13 corresponds to claim 11, where Majeti discloses that one of the broadcast streams is a radio broadcast (see Column 2, Lines 63-65 for transmitting the cable television signals over an RF communication means, therefore this transmission is a radio broadcast).

Claim 14 corresponds to claim 11, where Majeti discloses that one of the broadcast streams is an Internet broadcast (see Column 2, Lines 20-26 for a suggestion of providing computer users with Internet access). Majeti does not specifically disclose using the personal computer 74 for Internet access. The examiner takes Official Notice that it is well known for such a system of Majeti to provide a user with Internet access. At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the system of Majeti and Cragun, by providing the personal computer with Internet access, for the purpose of allowing the user to view information via the WWW or check his/her email.

***Allowable Subject Matter***

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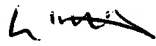
3. Claims 2, 7-10 and 16 are allowed, as discussed in the previous Office Action.

**Conclusion**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5359.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

  
VICTOR R. KOSTAK  
PRIMARY EXAMINER

January 26, 2004